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Attorneys for Objectors William Andrews and Walter Weber

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

JANET SOBEL, DANIEL DUGAN, Ph.D.,
individually and on behalf of all others
similarly situated,

Plaintiffs,

vs.

THE HERTZ CORPORATION, a Delaware
corporation,

Defendants.

Case No.: 3:06-CV-00545-LRH-RAM

**OBJECTORS' MOTION AND
MEMORANDUM IN SUPPORT FOR
ADDITION TO CLASS COUNSEL'S
PROPOSED HEARING SCHEDULE;**

**AND
OBJECTORS' MOTION FOR LEAVE OF
COURT TO REQUEST ATTORNEY
FEES, COSTS, AND PAYMENTS**

Objectors Bill Andrews and Walter Weber respectfully request, through counsel, to be included in the class counsel's proposed hearing schedule, and permission from this Court for Objectors to request attorneys' fees, as well as related costs and payments.

Objectors motion is appropriate at this time, because of Plaintiffs' pending motion for approval of the proposed notice to class members, which includes a request for the Court to set a hearing date for the application for attorneys' fees and costs. *See* Dkt. No. 335 (04/15/2013), Plaintiffs' "Motion and Memorandum in Support of Plaintiffs' Motion for Approval of Proposed Notice, Plan for Distribution of Notice, and Setting of Hearing Date for Application for Attorneys' Feed and Costs." *See also*, Dkt 339 (05/14/2013), "Defendant The Hertz Corporation's Opposition to Plaintiffs' Motion for Approval of Proposed Notice," *and* Dkt. 343 (05/23/2013), "Plaintiffs' Reply in Support of Motion

1 for Approval of Proposed Notice.” The Plaintiffs’ Motion, the Opposition, and the Reply all address,
 2 *inter alia*, the issue of the Plaintiffs’ attorneys’ fees and costs.

3 This motion is supported by the following Memorandum in support, all papers on file herein,
 4 and any argument and evidence which the Court may receive upon the hearing of this motion.

5 MEMORANDUM IN SUPPORT

6 Objectors who provide a material benefit to the class through their objections are entitled to
 7 fees as a matter of law. *White v. Auerbach*, 500 F.2d 822, 828 (2d Cir. 1974) (“[Objectors] are entitled
 8 to an allowance as compensation for attorneys’ fees and expenses where a proper showing has been
 9 made that the settlement has been improved as a result of their efforts.”); *see also Vizcaino v.*
 10 *Microsoft Corp.*, 290 F.3d 1043, 1051-52 (9th Cir. 2002).

11 Two years ago, the Andrews-Weber Objection provided grounds for this Court’s rejection of
 12 the first proposed settlement. In particular, the Objectors underscored that the settling parties had not
 13 shown this Court how much the class had been damaged or how much it would be compensated by
 14 the settlement. *See* Transcript of Final Fairness Hearing, May 17, 2011 (Dkt. No. 246), pp. 80-85;
 15 Andrews-Weber Objection (Dkt. No. 216) at 16-22. This Court recognized the role of the Objectors,
 16 and their attorney Daniel Greenberg, in remarks from the bench. Transcript, p. 80, ll. 24-25 (“In this
 17 particular case, I, frankly, am in complete agreement with Mr. Greenberg’s argument.”).

18 Two years later, this Court granted partial summary judgment to the Plaintiffs, increasing the
 19 class’s compensation from approximately \$1.46 million to over \$42 million. Dkt. 332 (Order,
 20 03/21/13). The material benefit Objectors intervention provided to the class – when compared to the
 21 first proposed settlement’s relatively minute benefit – is sizable.

22 Assuming that this Court ultimately finds this settlement fair, reasonable, and adequate under
 23 Rule 23, Objectors respectfully ask for permission from this Court to apply for fees, costs, and
 24 payments through counsel. If the Court grants this Motion, Objectors Andrews and Weber will
 25 subsequently file an application with this Court describing the requested fees, costs, and payments in
 26 detail.

27 Objectors’ request should not increase the aggregate costs to Defendant at all, because the
 28 Objectors will ask that the fees, costs, and payments come from the monies that would otherwise go

1 to Class Counsel. Objectors respectfully suggest to this Court that the deadline for Objectors' fee
 2 request is most appropriately the same day as, or a few days after, the deadline that the Court sets for
 3 Class Counsel's fee request. *See* Dkt. Nos. 335 and 343 (Plaintiffs' proposed notice schedule).

4 Because Daniel Greenberg's representation of Andrews and Weber occurred through a non-
 5 profit, public interest legal program organization, Objectors anticipate requesting much less than the
 6 maximum amount they are entitled to request as a matter of law.

7 CONCLUSION

8 Objectors Bill Andrews and Walter Weber respectfully request this Court to include them in
 9 the class counsel's proposed hearing schedule, and to grant permission for Objectors to apply for
 10 attorneys' fees, as well as related costs and payments, at the time Plaintiffs make such application.

11 Respectfully submitted,

12 Dated: June 11, 2013

13 /s/ Daniel Greenberg
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CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date I caused to be served a true and correct copy of the foregoing **OBJECTORS' MOTION AND MEMORANDUM IN SUPPORT FOR ADDITION TO CLASS COUNSEL'S PROPOSED HEARING SCHEDULE; AND OBJECTORS' MOTION FOR LEAVE OF COURT TO REQUEST ATTORNEY FEES, COSTS, AND PAYMENTS** by the method indicated:

 X by Court's CM/EMF Program
 by U.S. Mail
 By Facsimile Transmission
 by Overnight Mail
 by Federal Express
 by Electronic Service
 By Hand Delivery

Dated June 11, 2013.

By /s/ Jane Tippet
 An Employee of the Law Offices of David A. Hornbeck

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